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July 9, 2008

(Via electronic filing)  
Hon. Joseph C. Spero  
United States Magistrate Judge  
450 Golden Gate Ave.  
15th Floor, Courtroom A  
San Francisco, CA 94102

**RE: *Kathleen Mary Jones v. LVR Holdings, et al.*, Case No. 06-03606**

Dear Magistrate Judge Spero:

The purpose of this letter is to request that the Court again modify the Order of Dismissal ("Order") it entered on March 18, 2008, and allow the parties one hundred and eighty (180) days as opposed to ninety (90) days to move to vacate the Order. The reason the time period needs to be extended is that Judge James, following the most recent status hearing on the settlement agreement (where Judge James was informed that the status of Mr. Cutshall's check was still uncertain), ordered, *inter alia*, that a final status hearing be set for August 14, 2008 and that date is outside the current one hundred twenty (120) day period provided for in the Order, as modified by this Court in June, to vacate dismissal. A copy of Judge James' July 3, 2008 order (hereafter the "July Order") is attached hereto as "Exhibit 1." Moreover, the July Order also provided that if Ford Motor Credit Company ("Ford Motor") had not dismissed its lawsuit against Plaintiff by August 13, 2008, Judge

- 2 -

July 9, 2008

James would either 1) immediately vacate the settlement and refer the matter to this Court for disposition, or 2) order the parties to submit briefing regarding whether Ford Motor's acceptance of Mr. Cutshall's unverified checks constituted payment under the settlement agreement.

Consequently, Plaintiff hereby requests that the Court modify the Order such that the case will not be dismissed in its entirety with prejudice for one hundred and eighty (180) days – and during that extended period, as before, evidence that “agreed [for] consideration for [] settlement has not been delivered” shall vacate the Order and the “case shall forthwith be restored to the calendar to be set for trial.”

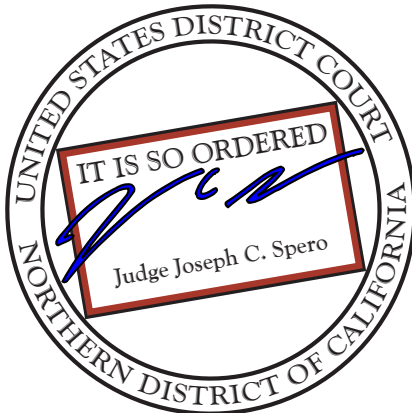
Very truly yours,

McGRANE GREENFIELD LLP

  
Gavin Harry McGrane

cc: Nelson & Kennard (via E-mail)  
Richard Cutshall (via US Mail)

Dated: July 15, 2008



# Exhibit 1

**CALENDARED**

JUL 03 2008

BY S

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KATHLEEN MARY JONES,

No. C 06-3606 JCS (MEJ)

Plaintiff(s),

**ORDER SETTING DEADLINE RE:  
DISMISSAL OF STATE LAW CLAIM**

vs.

**ORDER SCHEDULING HEARING RE:  
STATUS**

LVR HOLDINGS,

**AUGUST 14, 2008 AT 10:00 A.M.**Defendant(s).  
\_\_\_\_\_

On July 3, 2008, the Court held a hearing regarding the status of the parties' settlement agreement. Gavin McGrane appeared on behalf of Plaintiff Kathleen Mary Jones. Defendant Richard Cutshall failed to appear, and the Court was unable to contact him by telephone. The Court was also unable to reach Scott Kenard, counsel for Third Party Ford Motor Credit Company ("Ford").

At issue was whether Mr. Cutshall made a final payment to Ford under the terms of the parties' agreement. Although Mr. Cutshall provided Ford a personal check in May, that check did not immediately clear, and its status is uncertain at this point. On June 19, 2008, Mr. McGrane filed a letter stating Plaintiff's position that there is no settlement because Mr. Cutshall failed to make the required payment, and Ford has failed to dismiss its state court lawsuit against her. At the July 3 hearing, however, Mr. McGrane argued in the alternative that by accepting Mr. Cutshall's personal check, Ford has been paid under the settlement agreement, and its only remedy is to bring a claim directly against Mr. Cutshall.

In an effort to keep the parties' settlement agreement intact, the Court shall give a final opportunity for Mr. Cutshall to ensure that payment is made, via clearance of the personal check or

1 other means. Thus, Ford has until August 13, 2008 to dismiss its state court lawsuit against  
2 Plaintiff.<sup>1</sup> If Ford has not dismissed its state law claims, the Court shall either immediately vacate  
3 the settlement and refer this matter to Magistrate Judge Spero for disposition, or order briefing from  
4 the parties' regarding Mr. McGrane's argument at the July 3 hearing.

5 The Court shall conduct a status hearing on August 14, 2008 at 10:00 a.m. in Courtroom B.  
6 **All parties are required to attend the hearing. If any party wishes to appear by telephone, that**  
7 **party shall provide a toll-free number at which they may be reached by August 13, 2008.**

8 **FAILURE TO COMPLY WITH ANY PART OF THIS ORDER BY ANY PARTY**  
9 **MAY RESULT IN THE IMPOSITION OF SANCTIONS.**

10 **IT IS SO ORDERED.**

11  
12 Dated: July 3, 2008

13   
14 MARIA-ELLEN JAMES  
15 United States Magistrate Judge  
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27 <sup>1</sup> Although the Court stated August 14 at the hearing, that is the date of the further hearing and  
28 any action must take place before then.

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

KATHLEEN MARY JONES,

Plaintiff,

v.

LVR HOLDINGS et al,

Defendant.

Case Number: CV06-03606 JCS

**CERTIFICATE OF SERVICE**

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on July 3, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Richard Cutshall  
254 Onslow Place  
West Vancouver, BC V7S 1K5

Robert Scott Kennard  
Nelson & Kennard  
2180 Harvard St, Suite 160  
Sacramento CA 95815

Dated: July 3, 2008

Richard W. Wieking, Clerk  
By: Brenda Tolbert, Deputy Clerk

United States District Court  
For the Northern District of California